

1 Amy B. Vandeveld, SBN 137904
2 LAW OFFICES OF AMY B. VANDEVELD
3 1850 Fifth Avenue, Suite 22
4 San Diego, California 92101
5 Telephone: (619) 231-8883
6 Facsimile: (619) 231-8329
7 Attorney for Plaintiff

8 IN THE UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 KAREL SPIKES,

11 Plaintiff,

12 EUROPEAN CAR SERVICE; ANDREW
13 MACIEJEWSKI; ZENNON SMOCZYNSKI and
14 DOES 1 THROUGH 10, Inclusive,
Defendants.

Case No.: 07 CV 2394
LAB (WMC)

REQUEST FOR ENTRY OF
CLERK'S DEFAULT AGAINST
DEFENDANT ANDREW
MACIEJEWSKI

15
16 Plaintiff, KAREL SPIKES, respectfully requests that the
17 Clerk of the United States District Court, Southern District,
18 enter default against defendant ANDREW MACIEJEWSKI.

19 SPIKES filed the instant Complaint on December 20, 2007.
20 ANDREW MACIEJEWSKI was personally served with the Complaint and
21 Summons on January 15, 2008. The Proof of Service and Summons
22 was filed with this Court on January 23, 2008 (A copy of the
23 Summons and Declaration of Service filed with this Court is
24 attached to the accompanying Declaration of Amy B. Vandeveld as
25 Exhibit "A".)

26 Attached as Exhibit "B" to the Vandeveld Declaration is the
27 Declaration of Greg Cole, process server, confirming that he
28 personally served an individual who identified himself as Andrew

1 Maciejewski at approximately 10:00 a.m. on January 15, 2008.

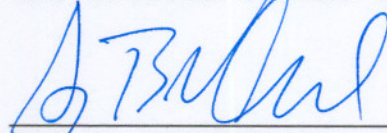
2 Pursuant to F.R.Civ.P. Rule 12, ANDREW MACIEJEWSKI was
3 required to respond to the Complaint within 20 days of said
4 service. ANDREW MACIEJEWSKI failed to file a response within the
5 20 day period and, in fact, has never filed a response to the
6 instant Complaint.

7 Plaintiff was subjected to discrimination in the instant
8 action because of inaccessible paths of travel and lack of an
9 accessible parking space, as well as lack of signage for such
10 space. Plaintiff seeks \$4,000.00 per offense, as well as damages
11 for emotional distress and other injuries, as authorized by
12 California Civil Code Section 52. Plaintiff also seeks recovery
13 of his attorneys' fees and costs, as provided by California Civil
14 Code Sections 51, et seq., and 54 et seq., and by Title III of
15 the Americans with Disabilities Act, 42 USC Sec. 12188.

16 Respectfully submitted:

17 DATED 2/13, 2008

LAW OFFICES OF AMY B. VANDEVELD

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19 _____
20 AMY B. VANDEVELD,
21 Attorney for Plaintiff
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LAW OFFICES OF AMY B. VANDEVELD
1850 Fifth Avenue, Suite 22
San Diego, California 92101
Telephone: (619) 231-8883
Facsimile: (619) 231-8329

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KAREL SPIKES,

Plaintiff,

vs.

EUROPEAN CAR SERVICE; ANDREW
MACIEJEWSKI; ZENNON SMOCZYNSKI and
DOES 1 THROUGH 10, Inclusive,

Defendants.

Case No.: 07 CV 2394
LAB (WMC)

DECLARATION OF AMY B.
VANDEVELD IN SUPPORT
OF REQUEST FOR ENTRY
OF CLERK'S DEFAULT
JUDGMENT AGAINST
DEFENDANT ANDREW
MACIEJEWSKI

I, AMY B. VANDEVELD, declare:

1. I am the attorney for Plaintiff, and am licensed and
admitted to practice before all the courts of California,
including the Southern District of United States District Court
in California.

2. I have personal knowledge of the facts set forth in
this Declaration and if called as a witness I could competently
testify to the following facts.

3. Attached hereto as Exhibit "A" is a true and correct
copy of the Summons and Return of Service of Defendant ANDREW

1 MACIEJEWSKI.

2 4. Attached hereto as Exhibit "B" is a true and correct
3 copy of the Declaration of Greg Cole, certified process server,
4 confirming that he personally served an individual who identified
5 himself as Andrew Maciejewski at approximately 10:00 a.m. on
6 January 15, 2008.

7 I declare under penalty of perjury under the laws of the
8 State of California and the United States of America that the
9 foregoing is true
10 and correct.

11 Executed this 13th day of February, 2008, at San
12 Diego, California.

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AMY B. VANDEVELD

Amy B. Vandeveld, Esq.
1850 5th Avenue
SAN DIEGO, CA. 92101
619-231-8883

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KAREL SFIKES,) Case No. 07CV2394 LAB WMC
)
PLAINTIFF,) PROOF OF SERVICE
)
vs.)
)
EUROPEAN CAR SERVICE, et al.,)
)
DEFENDANT,)
)

I, GREG COLE, declare as follows:

I am over the age of eighteen years and not a party to this action. I am employed in the County of San Diego, California, where the service occurred and my business address is 2250 Fourth Avenue, San Diego, CA 92101.

I served the following documents:

SUMMONS IN A CIVIL ACTION; COMPLAINT; CIVIL CASE COVER
SHEET

//

//

PROOF OF SERVICE - 1

Exhibit

A

AMY B. VANDEVELD, ESQ. SBN 137904
LAW OFFICES OF AMY B. VANDEVELD
1850 5TH AVE.
SAN DIEGO CA 92101
619-231-8883
Attorney for : PLAINTIFF

Ref. No. : 0297901-02
Atty. File No. : 07CV2394LABWMC

UNITED STATES DISTRICT COURT, SO. DISTRICT OF CA
SOUTHERN JUDICIAL DISTRICT

PLAINTIFF : KAREL SPIKES
DEFENDANT : EUROPEAN CAR SERVICE, et al.

Case No.: 07 CV 2394 LAB WMC
PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS IN A CIVIL ACTION; COMPLAINT; CIVIL COVER SHEET
3. a. Party served : ANDREW MACIEJEWSKI
b. Person served : Party in item 3a
4. Address where the party was served 8855 LA MESA BOULEVARD
LA MESA, CA 91941 (Business)
5. I served the party
a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on January 15, 2008 (2) at: 10:00 AM
6. The "Notice to the person served" (on the summons) was completed as follows:
a. as an individual defendant.
7. **Person who served papers**
a. GREG COLE
b. KNOX ATTORNEY SERVICE, INC.
2250 Fourth Avenue
San Diego, California 92101
c. 619-233-9700
d. Fee for service: \$28.75
e. I am:
(3) a registered California process server
(i) an independent contractor
(ii) Registration No.: 387
(iii) County: SAN DIEGO, CA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 16, 2008

Signature: _____

GREG COLE

PROOF OF SERVICE

Exhibit

A
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1 AMY B. VANDEVELD, ESQ., SBN 137904
2 **LAW OFFICES OF AMY B. VANDEVELD**
3 1850 5TH AVE.
4 SAN DIEGO CA 92101
5 Phone: 619-231-8883

6 Attorney for Plaintiff, KAREL SPIKES

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 KAREL SPIKES,) Case No.: 07 CV 2394 LAB WMc
12)
13 Plaintiff,) DECLARATION OF GREG COLE
14 vs.) REGARDING SERVICE OF SUMMONS IN
15) A CIVIL ACTION AND COMPLAINT
16 EUROPEAN CAR SERVICE, et al.,) UPON DEFENDANT, ANDREW
17) MACIEJEWSKI
18)
19 Defendants)
20)
21)
22)
23)
24)
25)

26 I, Greg Cole, declare that I have personal knowledge of the
27 matters contained herein. To those matters contained herein,
28 that I do not have personal knowledge of, I state them upon
29 information and belief. If called as a witness, I can and will
30 competently testify to the matters contained herein.

31 I am an independent California registered process server
32 (San Diego County Registration No. 387) for Knox Attorney
33 Service, Inc., located at 2250 Fourth Avenue, San Diego, CA
34 92101; the business phone number is (619)233-9700. I am over the

PROOF OF SERVICE

I, the undersigned, declare that: I am authorized to serve the following document(s) in the within action pursuant to F.R.Civ.P. 4(c) and that the documents were served on today's date as follows:

1. Case Name/USDC Number:

Spikes v. European Car Service
USDC No.: 07 cv 2394 LAB (WMC)

2. Document(s) served:

REQUEST FOR ENTRY OF CLERK'S DEFAULT AGAINST DEFENDANT ANDREW MACIEJEWSKI; DECLARATION OF AMY B. VANDEVELD IN SUPPORT OF REQUEST FOR ENTRY OF CLERK'S DEFAULT JUDGMENT AGAINST DEFENDANT ANDREW MACIEJEWSKI

3. Person(s) served/Place of service:

Thanasi Preovolos, Esq.
PREVOLOS & ASSOCIATES, ALC
401 B Street, Suite 1160
San Diego, CA 92101
Facsimile: (619) 238-5344
Counsel for Defendants EUROPEAN CAR SERVICE and ZENON SMOCYNSKI

Andrew Maciejewski
8855 La Mesa Boulevard
La Mesa, CA 91941
Defendant

4. Manner of Service:


____ (a) Personal Service: By handing copies of the document(s) to the person served [F.R.Civ.P. 5(b)(2)(A)].

✓ (b) Service by Mail: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid, at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in the affidavit. [F.R.Civ.P. 5(b)(2)(B); Cal. Code of Civil Procedure, Sections 1013a, 2015]

____ (c) Facsimile Transmission: From Fax No. (619) 231-8329 to the facsimile number(s) listed on this proof of service. The facsimile machine I used complied with Rule 2003(3), and no error was reported by the machine. [[F.R.Civ.P. 5(b)(2)(D)].

I declare under penalty of perjury, under the laws of the State of California and the United States of America, that the foregoing is true and correct.

Executed On: 2/13/08

By: 
LAURIE MILLER